

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives

December 7, 1994 to May 23, 1995

you have heard is that there are three objectives that must be met in order to reach a Class C. It can not be a 15 minute log violation. A 15 minute log violation will not be something that leads to prosecution under this. Driving over hours, causing someone to be less than steady on the road, causing serious injury or death would be something. We specifically realized that there are things in here that you wouldn't want to have as a technical way of getting someone into court. We tried to cover that in the amendment. Thank you.

Representative JACQUES of Waterville requested a roll call on the motion to accept Report "A" "Ought to Pass" as amended.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

ROLL CALL NO. 82

YEA - Adams, Benedikt, Berry, Bouffard, Brennan, Buck, Chartrand, Chase, Chick, Chizmar, Cloutier, Davidson, Desmond, DiPietro, Dore, Etnier, Fisher, Fitzpatrick, Gamache, Gerry, Gooley, Green, Greenlaw, Hartnett, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Keane, Kerr, Kontos, LaFountain, Layton, Lemaire, Lemke, Lemont, Libby JD; Luther, Madore, Mayo, Meres, Mitchell EH; Mitchell JE; Nadeau, Nass, O'Neal, Paul, Plowman, Poirier, Pouliot, Reed, G.; Richardson, Ricker, Rotondi, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Stevens, Stone, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Whitcomb, Winglass, Winn, Yackobitz.

NAY - Ahearne, Ault, Bailey, Barth, Birney, Bunker, Cameron, Carleton, Clark, Clukey, Cross, Daggett, Damren, Dexter, Donnelly, Driscoll, Dunn, Gates, Gieringer, Gould, Guerrette, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Libby JL; Lindahl, Look, Lovett, Lumbra, Marshall, Martin, Marvin, McAlevey, McElroy, Murphy, Nickerson, O'Gara, Ott, Peavey, Pendleton, Perkins, Pinkham, Poulin, Povich, Reed, W.; Rice, Robichaud, Rosebush, Spear, Stedman, Strout, Taylor, Thompson, True, Waterhouse, Wheeler, Winsor.

ABSENT - Aikman, Bigl, Campbell, Farnum, Joseph, Kilkelly, Morrison, Truman, Watson, The Speaker.

Yes, 79; No, 62; Absent, 10; Excused, 0.

79 having voted in the affirmative and 62 voted in the negative, with 10 being absent, Report "A" "Ought to Pass" as amended was accepted.

The Bill was read once. Committee Amendment "A" (H-212) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 11, 1995.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-175) - Minority (3) "Ought Not to Pass" - Committee on Appropriations and Financial Affairs on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Line-item Veto (H.P. 729) (L.D. 1003) TABLED - May 4, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Motion of Representative KERR of Old Orchard Beach to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative Townsend: Thank you Mr. Speaker, Men and Women of the House: It is an awkward situation for me today to rise to speak against my Chair. However, I would urge you to join me in voting for the Minority "Ought Not to Pass" Report on the Line-item Veto.

This is of course a Constitutional Amendment and I want to repeat the words I said last night. I feel that we ought to be extremely cautious about amending our Constitution. I have not yet heard a convincing reason why we need to change the Constitution to give the Governor the Line-item Veto. I want to point out that we've had so far this year two unanimous reports out of the Committee on Appropriations and Financial Affairs. Two unanimous supplemental budgets. I also want to point out that the voters have given us one of the best checks and balances available in the political system. That is a balance of power through the balance that we have distributed throughout these two bodies. The other body has now held narrowly by one party with one independent Senator in the balance. This body is held narrowly by another with a wide divergence of opinion in either caucus and, of course, we have an Independent Governor. I think that is an extremely important check and balance in the system. Thirdly, I feel that the Line-item Veto, is the most important issue for me. It undermines the principle of compromise. This is only my second term in this body, but I learned pretty quickly that in order to get something that I wanted in a budget I was going to have to give a little. I ended up voting for some pretty stinky things last time around. I did it because that is the nature of compromise. If we have a Line-item Veto what reassurance do I have, what reason do I have to compromise. If the items which I gained by giving up a little, can than be vetoed after the fact. It undermines the entire principles of compromise. Fourthly, I have to point out that this bill is especially troubling to me because it applies not only to budgets, but to any bill with an allocation or allotment in it. That is something to be extremely cautious about. So I would urge you to join me in voting for the Minority "Ought Not to Pass". Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Thank you Mr. Speaker, Men and Women of the House: As a member of the committee who is in support of Representative Kerr's proposal, and I compliment him for drafting, what I consider a fine line compromise on what a Line-item Veto means. Line-item Veto in this case, we had a number of proposals before us and they went from one extreme, which was a very heavy handed strong Line-item Veto to what I consider Representative Kerr's, which balanced the power of the Executive

under this proposal and the continuing authority of this Legislative body.

I think someone else will lay out the particulars, I just saw Representative Kerr looking at his sheet. Let me give you a good reason to vote for it. Having heard the previous speaker, I agree, maybe in the environment we're in today, the Line-item Veto is not as important. We do have a balance of power. You do not amend the Constitution of the state of Maine for what is in existence just today. The Constitution is something that will live hopefully, beyond our service here and hopefully, far beyond any of our service on this earth.

The reason to amend the Constitution to have a Line-Item veto is history. We have not always had the balance we have now. Maine has had a long history of one party control, both parties in both ends with a different party in the governorship. In those instances the Line-item Veto is a thing that would make the Governor, who is elected by the people statewide, the significant negotiator and player.

Representative Kerr's amendment to the Constitution would only require a majority vote to override the Governor's Line-item Veto. The Governor only has one day to make that decision and that's only after we pass it down to him, so we are likely to still be in session, we're likely to still be here and we're likely to still be participants in this process. I think it's a perfectly reasonable move. I think it's a move that most other states have provided to their Governors and now our Congress, which is divided between parties is extending to the President of the United States. I think it's perfectly reasonable and in order for us to control spending and set priorities statewide it's an item we ought to amend the Constitution with. I would urge your support, a two-thirds support to show a strong vote of support for this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I come to these votes on Constitutional amendments from a different perspective. I voted in committee to have this one come to the floor. Whether I agree with the line-item veto is immaterial. The facts are that the people of Maine cannot even address a question of changing our Constitution unless we give them the opportunity to do that.

Issue after issue, we debate the issue on the floor, I don't think it's the issue, the issue is do we give the people of Maine the opportunity to gather the facts around a certain issue and make an informed decision as to what they want in their Constitution.

In the last session we had one here on a Constitutional Convention, and I'll never forget what Representative Martin from Eagle Lake said when he finished his speech. He said why are you afraid of the people who sent you here and that applies here also.

Now I've heard the word democracy kicked around here quite a bit the last couple of days on these issues. If I'm not mistaken, the root word of the word democracy is demos "people" and those are the ones who send us here. I spent a lot of time in Washington. One of my favorite places there is the Jefferson Memorial. I heard his name kicked around yesterday also and I can't quote it verbatim, but if you go to the Jefferson Memorial you look in the

rotunda you will see words to the affect that Constitutions and Institutions are made by men and they must be changed from time to time to reflect the times.

That's where I come from on Constitutional amendments. We stop them. We block them. We do it every time, yet, when are we going to have the courage to say to the people of Maine, yes, we trust you to exercise that common sense that you have. We trust you people that go to a town meeting every year and gather facts and generally you make a proper decision. So why can't we trust the people that sent us here to gather the facts on a Constitutional amendment and make the proper decision. In my way of thinking it isn't whether you are for or against a Line-item Veto. It's whether you are for or against sending it out to the people and giving them a chance. Thank you.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Thank you Mr. Speaker, Men and Women of the House. I think we have two issues here. One is how we feel about Constitutional amendments and sending issues to the people the other is what we send to the people.

This bill makes me very nervous, now partially that's because I don't like Line-item Veto at all. I must say I'm not much in favor of any President having one, let alone any Governor it has nothing to do with the party or the executive. But this particular bill makes me even more nervous than usual. I also have a problem as Representative Townsend has raised with the fact that this applies to any bill and piece of legislation that has an appropriation or allocation, not simply part of a budget.

Another thing that makes me nervous is the language that says that the Chief Executive can substitute for any item. The Chief Executive has offered us a document which is the budget that his branch has put together and is offered to the Legislative branch for approval. If two-thirds of this body approve that document I say that is great we've probably had our fights. For the Chief Executive to then take a piece of it out and replace it with something else as long as there is no change in legislation makes me extremely nervous. I don't know what's going to happen with this one and the initial language of the bill it says may replace any item or items. I'm not sure that in practice this will mean what it would mean to most of us when we think of Line-item Veto. Okay eliminate an expenditure of a certain sort. All of this stuff makes me very, very nervous and unless I was extremely comfortable with the bill I would surely not then want to send it to the people and amend our Constitution with it. Thank you very much.

The SPEAKER: The Chair recognizes the Representatives from Madawaska, Representative Ahearne.

Representative AHEARNE: Thank you Mr. Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative AHEARNE: Thank you Mr. Speaker. To any member of the committee. Will this Line-item Veto allow the Executive to delete/add sentences or add comas, periods or conjunctions?

The SPEAKER: The Representative from Madawaska, Representative Ahearne has posed a question through

the Chair to anyone who may care to respond. The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Thank you Mr. Speaker, Men and Women of the House. This would not allow the Governor to replace language, it would allow him to remove or reduce. Thank you.

Representative WATERHOUSE of Bridgton requested the Clerk to read the Committee Report.

The same Representative requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

The Clerk read the Committee Report in its entirety.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Members of the House. Something that has sparked my interest was a question posed by the Representative from Madawaska, Representative Ahearne, in terms of whether or not things can be deleted. I would just, and the exact wording escapes me I'm not sure by the way it is worded, but I would just remind you of a Supreme Court case which involves the state of Minnesota a few years ago. Where because of the wording in the Constitution of that State, when they passed the Constitutional amendment dealing with Line-item Veto and the ability of a Governor to delete, what the Governor of that state did was to delete letters of words which completely reversed the actual intent of the Legislature and completely changed the entire meaning.

The question that has to be addressed carefully is whether or not you delete just money items and that was not justified I got the interpretation by the Representative from Presque Isle, Representative Donnelly that you could delete items. It's one thing to delete monetary items, it's another thing if you're going to allow the Governor to deal with words. And by the way, I just want to point out that he reversed entirely the intent of the Legislature by deleting letters out of words to do just the exact reverse and then subsequently it went all the way to the Supreme Court of the United States and the Governor's action was upheld. Subsequent to that the Legislature has subsequently amended their Constitutional amendment dealing with Line-item Veto and have removed and changed it so that would never again happen in that state.

We have to be very careful that what we do is deal with monetary items only, by that I mean dollars and not with the language of the bill itself. So based on the response by the Representative from Presque Isle, Representative Donnelly, for the record, I want to make sure that the record clearly indicates what I believe is the intent of the bill and not anything to the contrary.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Thank you Mr. Speaker. Not to make the top ten list, but in my attempt to be brief and not speak again I was to brief and need to speak again. To fully answer the question of the Representative from Madawaska, Representative Ahearne and fully flush out the question and concerns by the Representative of Eagle Lake, Representative Martin. It is only dollar amounts in which the Governor can deal with. It can reduce or eliminate the dollar amount, not the language. The committee did share the concern without the benefit of the Minnesota court case. I'm glad to see that the foresight of Representative Kerr and the members of the Majority Report is also shared by the Supreme Court. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Thank you Mr. Speaker, Men and Women of the House: I'd just like to quickly to point out that I still have yet to hear a convincing argument that there is a pressing need for the Line-item Veto. When I knock on doors in East Deering I do not get lobbied by my constituents that we need a Line-item Veto in the state of Maine. They tell me they want property tax relief and they want me up here addressing the issues which affect them on a day to day basis. They don't speak to me about the Line-item Veto.

I also want to point out that while I, in fact, have warmed up to the idea of a Line-item Veto at the national level. Maine is very different from Congress. In Congress you can amend any bill with a non germane amendment and sneak a piece of pork that you can then take home to your district. You can't do that here in Maine. So the idea of sneaking something on to a piece of legislation is just not true, it just doesn't happen here.

The issue of surprise items, sneak items was raised during the committee hearings and my response to that is that we're in a small body, a small number of people are in the room and if you have an interest in the legislation, be in the room and if that means the Appropriations Committee meeting is at 3:00 a.m. then be in the room at 3 in the morning, all parties should be involved. I certainly hope the Governor's representatives are going to be sticking with us right through to the bitter end of any negotiations.

Those are my final reasons I won't speak again, I promise. Please join me in rejecting the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: This is strictly a policy question. I am not going to try to convince you whether to support a Line-item Veto or not. I think we all know what it does. This bill, I think, is something of a major compromise to other bills that were put before this body in the past since I've been here.

What this bill does is Line-item Veto for any L.D. or the budget with any appropriations or allocations. The time that the Governor has to exercise his veto is one day. The question was asked does the Governor have to replace a veto with an item of lesser cost. The answer to that is yes. I think that the people of the state of Maine can make this decision. Let's give them that opportunity. I think it's a healthy start to make some major changes that are needed in this body. People, we hear continually

say that they want to cut state spending, they want property tax relief. We know we haven't been able to achieve that yet. Line-item Veto is strictly a policy issue and I'd urge your support of the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Thank you Mr. Speaker. As the sponsor of one of the Line-item Veto bills that was not accepted by the Appropriations Committee, I wanted to join in the support of the final product of the Appropriations folks.

It seems to me that there are probably legislators who feel that the Governor should not have any veto power. The Executive currently has the opportunity to veto whole pieces of legislation and this body and another body by two-thirds vote decides that in spite of the Governor's wishes that the law will continue as originally proposed.

The piece of legislation that I submitted would contain that same process under line-item. The committee has chosen to go another route. I think the point that was made, if the Legislature is committed to certain items that deal with a budgetary matter, they ought to be willing to vote for it in isolation. I appreciate the comments from the Representative who's serving his first term on the Appropriations Committee who says that everything that enters in the budget is fully agreed upon by all members of the Appropriations process and approved by all members of the Legislature and the Chief Executive. I would suggest that at least in past budgets that is not always the case. I think that it would not do any of us any harm to see some of the items that appear in a budget or in a piece of legislation that has a financial fiscal note attached to it to come back to this body and to have to be supported by a majority vote in isolation.

I think the Representative from Old Orchard Beach has said it well when he said that this is strictly a policy question. It's a decision on the part of the members of this body as to whether we ask the people whether they think a Chief Executive ought to be able to look at a particular part of legislation and call into question the action of the Legislature and make the Legislature vote in the affirmative for that single item. Why should we hide from the task of voting in the affirmative for something that we have approved, perhaps having made a mistake upon or approved in a compromise package that isolated, doesn't look as rosy once it is put in front of us.

Line-item Veto is an appropriate question to ask the people. It doesn't diminish our power one iota. It makes us perhaps even more responsible as a Legislative body and I think that it's something that the people deserve an opportunity to vote upon. I urge your support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Members of the House: Again for the record, I'd ask you to turn to the L.D. roughly in the middle and I quote, "for any disapproved item or items the Governor shall replace the item with one that does not result in an increase in an appropriation or allocation or a decrease in a deappropriation or deallocation". Am I to assume that item means the money, that it does not mean for example replacing a program at BMHI or AMHI with a fish way on the Aroostook River?

The SPEAKER: The Representative from Eagle Lake, Representative Martin has posed an additional question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: In answer to the question, the intent of the committee was to deal with money items strictly and not for the changing of words and substitution of programs.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Thank you Mr. Speaker. I would repeat that the line itself from the Constitution and it is important to note what the meaning of the word item is going to mean. We have no definition of the word item in the Constitution. There is no definition of that word. That line and I will read it again, "for any disapproved item or items, the Governor shall replace the item with one that does not result in an increase in an appropriation or allocation or decrease in a deappropriation or deallocation". Does that mean the monetary item or does that mean a program item? Could the Governor, under this definition, take a bill remove the item and replace it with an item unrelated, for example, as I said a state institution for the mentally ill and instead put in a fish way on the Aroostook River, which happens to be a popular item of mine at the moment and therefore getting the money that the Legislature would not give him for a program that we wouldn't give him, but chose to do it this way. I hope your getting the question that I'm posing here and the key is what does the word item mean. If it means money, that's one thing. If it means program, we'd better amend it before we proceed to enactment and sending this to the voters.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House. The answer to Representative Martin's question is that it only means money, an appropriation, an allocation or a deappropriation. It is only for that particular item that the Governor or that only issue that the Governor is vetoing. From our OPLA staff and from members of the Appropriations Committee it only means money. And I think that we can complicate this issue as long as you want, but it only means money.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Hartnett.

Representative HARTNETT: Thank you very much Mr. Speaker, Men and Women of the House. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative HARTNETT: This would be for any member of the committee who would like to answer. I am reading the same section that the good Representative from Eagle Lake has read. As I read this the Governor may take an item out and it says shall replace it. The item was one that does not result in an increase in the appropriation. The argument was made that this would be able to cut taxes and cut spending, but the simple fact is we'd be taking sort of one round peg out and sticking another round peg in.

My question is, while I understand he may put an item in of less expenditure or less deallocation that it's not necessarily composed upon the executive to

do such. If I haven't make myself clear, I'll certainly rephrase the question.

The SPEAKER: The Representative from Freeport, Representative Hartnett has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: If I read the question correctly or what you've asked is does the Governor has to replace a vetoed item with an item of lesser cost. The answer to that question is yes.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Thank you Mr. Speaker, Men and Women of the House: To further clarify the workings of a budget the state of Maine must have a balanced budget. That means you do not have money floating around that is not expended or dealt with in some fashion and you do not run into the red. In order for the Governor to replace it he must place it somewhere. He can not simply Line-item Veto out a \$100,000 dollar item and say there it's done. It must go somewhere. If it goes into unallocated surplus that's someplace. If it goes into the Rainy Day, it has to go somewhere. It can't just float around in the black abyss of financial affairs. So that's what this language means. The context of the budget all money must be dealt with and it must be balanced.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Hartnett.

Representative HARTNETT: Thank you Mr. Speaker, Men and Women of the House: I also thank the members of Appropriations for that answer. So as I see it then, because we must have a balanced budget, there will no cost saving involved in one of these vetoes. The money may not go to specific expenditures, but it will go somewhere. Now I came in here today thinking what a great idea, and I know this is part of our party agenda, but there is no cost savings involved here. This just takes one kind of pork out and puts another kind of pork in. And I'll tell you if we're going to put pork in the budget, I'd rather it be ours than the Executives.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Cloutier.

Representative CLOUTIER: Thank you Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Freeport, Representative Hartnett is exactly right. You can put anything into this bill and you can pull anything out anytime you want and that's the whole issue. Let's say we were to present an issue that was absolutely critical to your district, but it wasn't critical to the Governor, whether it be this Governor, the next Governor or a Governor 20 years down the road, he could actually pull out the sustenance, the money, out of that district, your district, and put it in and replace with something for somebody else.

Now what we're talking about is the ability for the Governor to eliminate the process of him dealing with the Appropriations Committee. Why have an Appropriations Committee if you're going to establish Line-item Veto such as this? It is a question, I ask you to think long and hard about it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: The question asked I believe was, again I think we are deviating from what this piece of legislation does. Is the Governor prohibited from increasing other appropriation or allocations within the budget document or an L.D.? The answer to that question is yes. He can not do what people has insinuated that he take money and put it somewhere else or move it around. That cannot be done. Is the Governor prohibited from vetoing nonappropriations and allocations dealing with statutory language? Is he prohibited from doing that? Yes he is. So we're not building or increasing the budget or shifting those items around, that's prohibited in this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Pouliot.

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I know that this is a touchy issue, but this is giving an awful lot of power to one individual. You know we are a part-time Legislature. We are sent here to do the people's work. Actually, before a budget has gone down to the Governor's desk, usually all the ironing out is done here with you, the people's workers. I think it's giving an awful lot of power to one individual and I think one of the Representatives here said it well and eloquently on the floor of the House. If I should have a problem in this budget and I didn't like it and the Governor had a Line-item Veto, don't you think I couldn't go downstairs behind your back and just tell him, "Hey look Governor could you do me a favor and pull this particular thing out, because I don't think that Bangor, Portland, Machias or one of these areas should have this particular thing and maybe you could just give me a little reward and feed Lewiston a little more?" I think the system has been served well in the past years, I don't think there's anything wrong and I don't think we have to fix it right now. So I would hope that you would oppose the Line-item Veto.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Thank you Mr. Speaker, Women and Men of the House: I was on the Minority Report of this piece of legislation and I feel very strongly about this. Any and all Chief Executives would want a Line-item Veto and we have heard this across the country. However, Maine has continued to be unique and does not have a Line-item Veto. This may sound like a good idea but in my opinion it is a bad idea. I believe that by having a Line-item Veto the Legislative branch relinquishes our responsibility and our ability to in fact, conduct legislative process as we know it. We forego our opportunity and actually our privilege and the power that we currently have. And because government is made up of three equal branches it is my strong opinion that this makes the three branches unequal.

I believe that it renders the legislative process impotent and it neutralizes the legislative process and the ability for the Legislators to act and legislative action. In my opinion, it discourages debate, negotiation and compromise, which must occur now as a budget is developed through the process that we now have with the input of the Executive branch and with the input of the Legislative branch. If in

fact a Chief Executive has that Line-item Veto, I would question whether they would come to this table in sincerity and genuine interest knowing that down the road after the actions have been taken, they could in fact veto any item in that particular budget. I would ask again, why wouldn't any Chief Executive want a Line-item Veto? And we must remember, if we're encouraging the amendment of the Constitution of the State of Maine that amendment will be for all times. So I ask you to vote against the Majority "Ought to Pass" Report so we can accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: With the questions that are being asked here I'm afraid that we're getting more confused than getting enlightened. So I think we should get additional information for you. Therefore, I'll make a motion to table this until later in today's session.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

On motion of Representative MARTIN of Eagle Lake, tabled pending the motion to accept the Majority "Ought to Pass" as amended Report and later today assigned. (Roll Call Ordered)

On motion of Representative JACQUES of Waterville, the House recessed until 6:30 p.m.

(After Recess)

The Chair laid before the House the following items which were tabled earlier in today's session:

House Divided Report - Committee on Judiciary - (9) Members "Ought Not to Pass" - (4) Members "Ought to Pass" as amended by Committee Amendment "A" (H-210) on Bill "An Act Concerning Grandparents' Rights of Visitation and Custody" (H.P. 364) (L.D. 484) which was tabled by Representative TREAT of Gardiner pending her motion to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Thank you Mr. Speaker, Men and Women of the House: I hope that you will support the Majority "Ought Not to Pass" Report on this bill. The issue of grandparents' rights or visitation for their grandchildren is one which has been hotly debated and really gotten into for the first time in this state in the last session of the Legislature. We adopted at that time, a law which provided for automatic intervener status for a grandparent to become involved in a custody case. They also considered, and that bill came up to our committee with a sunset on it which we removed. There was a lot of interest and we felt it was a law that was working very well and it was something that made sense. It's something that went under the hammer in this body probably a week or so ago, perhaps more. What this bill does is something quite different and the majority of the committee felt that it was a mistake.

The proposal here is to grant to grandparents the opportunity to visit with their grandchildren after

(-SOUTH-)rights have been terminated, this is after their children as parents rights have been taken away from the parent and placed into foster homes pending adoptions, essentially. What this bill would do is say that grandparents, during that time, when their own children have not been allowed to be seeing these children, because generally of abusive situations in the home, that those grandparents can visit during that period of time and then when they're put up for adoption then they don't have that right anymore.

This is not something that is done anywhere else in the United States, it was opposed by the family law section of the Bar Association, which we don't always agree with everything they say, but they are people who represent parents and grandparents on all sides of these issues and they were very strongly opposed to it feeling that it could harm the children and that the motives of the grandparents were not always clear. Particularly when you have situations where they're close to the parents whose rights have been terminated.

I'd like to stress that there are other opportunities for grandparents in these exact situations. They are, in fact, preferred placements for these children. That's where DHS is going to be looking first. If parental rights are terminated they're going to look to relatives, and, in fact, it's been written into the statute that they should look to the relatives, including grandparents. In addition these grandparents can petition to become foster parents in this case and this would only arise when they had decided that they didn't want to be foster parents and yet they would be given these visitation rights.

It's a very difficult area and I think there's very legitimate examples of where this would have made some sense and I know you will here about those examples from the proponents of this bill. It was the judgment of the majority of the committee that more harm would be done from this than good. That we had taken this step towards giving much greater rights to grandparents then we had ever done before and that we should let that process work for the time being and see how it goes before expanding in to area.

I would encourage you to vote with the majority here for "Ought Not to Pass".

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Poulin.

Representative POULIN: Mr. Speaker, Ladies and Gentlemen of the House: As sponsor of this legislation I'd like to say a few words in support of the Minority Report.

Under current law when parental rights are terminated grandparents by law are no longer grandparents. This is the part that really troubles me about this. Even if a judge believes that an existing relationship should continue between the grandparents and the child, by law he can't allow what he believes is in the best interest of the child.

As Representative Treat said, when parental rights are terminated, DHS has custody of the child and the goal is to get the child in an adoption situation. The problem that arises is that many, many children in this state are either left in a state institution or bounced between foster homes for years and are prevented, in some cases, prevented from visitation with grandparents.

The Minority Report allows a judge to do what it is in the best interest of the child. Thank you.